IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 5215 of 1998

Between:

A.P.S.R.T.C., Rep by its Managing Director
Mushirabad, Hyderabad.

..... PETITIONER

AND

1 State Transport Appellate Tribunal Rep: by its Presiding Officer
Hyderabad
2 Regional Transport Authority Rep: by its Secretary, Nellore
3 P.Venkateswarlu, C/o M.Vinobha Devi Advocate, Flat No. 305-E,Balaji Bhagyanagar Apartments, Nallakunta, Hyderabad,44.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction, especially in the Nature of Writ of Certiorari calling for the records relating to the impugned order dt 9-9-97 made in AP 217/97, the 1st respondent here in setting aside the order in Rc. 22751/A2/95 of the 2nd respondent and directing the issue to permit to 3rd respondent on the mofussil route, Nellore (RTC) depot to Rajupalem and quash the same as being illegal, without jurisdiction and invalid.

Counsel for the Petitioner: MR.K.HARINATH

Counsel for the Respondent Nos.1 and 2: --

Counsel for the Respondent No.3: Smt. M. Vinobha Devi

The Court made the following :

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ORDER:

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Questioning the impugned order, dated 09-091997 passed by the first respondent in A.P. No.271 of 1997, the petitioner filed this writ petition.

The petitioner states that the unofficial third respondent made an application to the second respondent-Regional Transport Authority, Nellore, for grant of mofussil stage carriage permit to ply on the route -Nellore (RTC Depot) to Rajupalem via Madras bus stand, Z.P.P. Office, Leela Mahal, V.R.C., Kalyani Films center, Ramalingapuram, Atmakar bus stand, Venkateswarapuram, Padugupadu, Kovvur, Patur and Yellayapalem. The second respondent by order in Rc. No.22751/A2/95, rejected the said application. Aggrieved thereby, the third respondent filed an appeal in A.P. No.271 of 1997 before the first respondent-State Transport Appellate Tribunal, Andhra Pradesh, who by the impugned order, dated 09-09-1997 set aside the order passed by the second respondent and directed issue of permit to the third respondent herein for the route in question. Assailing the impugned order, the petitioner-APSRTC filed this writ petition.

Heard the learned Counsel for the petitioner and the leaned Counsel appearing for the third respondent.

The learned Counsel appearing for the petitioner submitted that the route in question, in fact, overlaps the notified route - Nellore to Yellayapalem via Kovur and Rajupalem covered by G.O.Ms. No.102, Transport, Roads and Buildings (TR.V), dated 13-02-1987 for a distance of 10.5 kilo metres. He further submitted that since the second respondent-primary authority rejected the application of the third respondent, the petitioner had no grievance against non-issuance of notice, but inasmuch as the impugned order seeks to direct grant of permit to the third respondent, which is passed without issuing any notice to the petitioner, the same is liable to be set aside.

The learned counsel for the third respondent did not dispute the factum of non-issuance of any notice to the APSRTC by the first respondent before passing the impugned order in the appeal preferred by the third respondent against the order passed by the second respondent.

Having regard to the fact that once a route is notified, and if there is any request for grant of permit for a route overlapping the notified route, it is the duty of the Authorities concerned at least to issue a notice to the APSRTC before considering the said request, and in view of the fact that the first respondent-STAT did not issue any notice to the APSRTC before passing the impugned order in the appeal preferred by the third respondent against the order passed by the second respondent, which admittedly affects the interest of the petitioner, the same is liable to be quashed and set aside, for it violates the principles of natural justice.

For the foregoing reasons, the writ petition has to be allowed, and it is accordingly allowed with the following directions:

The impugned order dated 09-09-1997 passed by the first respondent in A.P. No.271 of 1997 is set aside and the appeal in A.P. No.271 of 1997 is remitted to the first respondent. The first respondent is directed to dispose of the appeal in A.P. No.271 of 1997 afresh in accordance with law, after issuing a notice and affording an opportunity of hearing to the APSRTC, within a period of eight weeks from the date of receipt of a copy of this order. As the learned counsel for the third respondent submitted that by virtue of the orders of the first respondent-Appellate Authority, the third respondent is plying a bus in the route, the third respondent shall continue to do so till the disposal of the appeal by the first respondent. No costs.

N.V. RAMANA, J

Date: 18-03-2005

Svv

That Rule Nisi has been made absolute as above.

Witness the Sri Devinder Gupta, the Chief Justice on this Friday, the Eighteenth day of March, Two thousand and Five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presiding Officer, State Transport Appellate Tribunal, Hyderabad
2 The Secretary, Regional Transport Authority, Nellore
3 Two CD copies

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